

SEP 24 2013

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

OBADYA HANIFI ABED) Civil Case No. 7:01cv00356
v.) Criminal Case No. 7:97cr00024-5
UNITED STATES OF AMERICA)
) MEMORANDUM OPINION
)
) By: Samuel G. Wilson
) United States District Judge

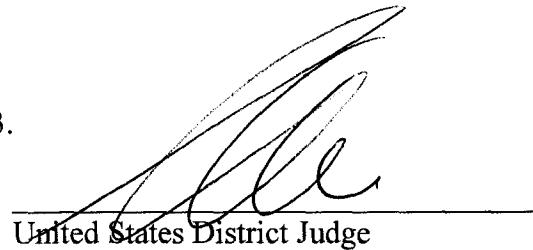
Obadya Hanifi Abed, a federal inmate proceeding *pro se*, filed a “motion for relief from judgment” (ECF No. 13), in which he argues that his 1998 convictions are unlawful. Inasmuch as Abed is challenging the validity of his federal convictions, the court construes Abed’s motion as a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Upon review of the record, however, the court finds that the motion must be dismissed as an unauthorized, successive § 2255 motion.

Abed challenges his 497-month sentence for being a member of a criminal enterprise in violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(d), (“RICO”), conspiring to violate RICO, various offenses related to damaging and destroying a building by fire, using a firearm during and in relation to a crime of violence, and conspiring to distribute marijuana, cocaine, and cocaine base. Court records indicate that Abed previously filed multiple § 2255 motions regarding the same conviction and sentence, all of which this court dismissed. See Civil Action No. 7:01cv00356 (claims dismissed as defaulted and unexcused) and Criminal Case No. 7:97cr24, ECF Nos. 582, 583, and 584 (dismissed as successive), ECF Nos. 602, 604, and 605 (dismissed as successive). This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255(h).

As Abed has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court must dismiss his motion as successive.¹

For the reasons stated, the court construes Abed's motion as a § 2255 motion and dismisses it as successive.

ENTER: This 24th day of September, 2013.



A handwritten signature in black ink, appearing to read "John C. Elmore", is written over a horizontal line. Below the signature, the text "United States District Judge" is printed in a standard font.

¹ Petitioner is hereby advised of the procedure for obtaining certification from the United States Court of Appeals for the Fourth Circuit to have this court review a successive § 2255 motion. Petitioner must submit a copy of the successive § 2255 motion to the Court of Appeals, along with a motion requesting a three-judge panel certification that the district court may review the successive § 2255 motion. See 28 U.S.C. § 2244. A Fourth Circuit form and instructions for filing this motion are available from the Fourth Circuit at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.